



California Fair Political Practices Commission

December 17, 1986

E. P. "Bud" Maron
P.O. Box 5306
Oxnard, CA 93031

Re: Your Request for Advice
Our File No. I-86-314

Dear Mr. Maron:

In your letter dated November 7, 1986, you requested information concerning the campaign disclosure provisions of the Political Reform Act.^{1/} This letter constitutes informal assistance under subsection (c) of Regulation 18329 (copy enclosed.)^{2/}

QUESTIONS

1. How does the Act deal with obligations incurred but not billed by the filing date?
2. How does the Act deal with bills which are not acknowledged?
3. Is there a provision for promises of contributions, post-dated checks and checks to be held?

CONCLUSIONS

1 and 2. Whenever consideration has been received by a candidate or committee, but no bill has been received, and the candidate or committee can determine the amount of the expenditure, the expenditure must be reported as an "accrued expense" on Schedule F of the campaign disclosure statement (Form 420 or 490) covering the period during which the consideration was received. (FPPC Memo M-83-132 (May 10, 1983), copy enclosed.)

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted.

^{2/}Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Whenever consideration has been received, but the committee has not received a bill in the normal course of business, and the committee cannot determine the amount owing, the expenditure is reported on the next campaign disclosure statement, either as a payment (Schedule E) or as an accrued expense (Schedule F). With respect to a billing period, the "normal course of business" is no longer than 31 days (FPPC Memo M-83-132).

3. Contributions must be reported on the date they are received, not the date of deposit. However, if a check received by a candidate or committee is postdated, the candidate or committee should report the contribution as a "pledge" on Schedule D of the campaign disclosure statement. In addition, if a person promises to pay for specific goods or services and the candidate or committee contracts for those goods or services based on the person's promise to pay, a reportable "pledge" has been made (Section 82015).

ANALYSIS

Government Code Section 82025 defines "expenditure" as "a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment...." An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier (Section 82025).

When a candidate or committee knows the amount of an expenditure, the expenditure must be reported on the campaign statement. Examples of situations in which the candidate or committee will be deemed to have knowledge include:

1. The committee has received an estimate of the cost;
2. The item has been charged and, therefore, the committee should have a receipt;
3. The committee knows the amount owing because of set rates, as in the case of advertising space; or
4. A retainer (e.g., for consulting services or legal fees) becomes due during the period covered by the campaign statement. (FPPC Memo M-83-132.)

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December 17, 1986
Page 2

You should be aware that any attempt to delay billing beyond the normal course of business in order to avoid disclosure or for any other reason would violate the Political Reform Act.

You should also be aware that the Commission will re-examine the issue of reporting pledges soon, probably at its January meeting. You should contact us again after that time to determine the Commission's policy with regard to pledges.

If you have any further questions regarding this matter, please contact me at (916) 322-5662.

Sincerely,

Diane M. Griffiths
General Counsel

Carla Wardlow

By: Carla Wardlow
Political Reform Consultant

DMG:CW:kmt
Enclosure

E.P. "Bud" MARON

Real Estate Investments
—Consultant—

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11-7-86

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COMMENT

How does the filing law handle obligations incurred but not billed or invoiced by filing date? This appears to be a gross 'leak' in the controls.

How does the form handle the bills and invoices **not acknowledged**. Such as items whose delay can be attributed to "late mail" or? Where is the 'hammer'?

Where is there provision for promises or post dated checks or checks to be **HELD**!...

Would appreciate enlightenment.

thank you

B. Maron



Memorandum

DATE: May 10, 1983

No. M-83-132

TO: Advice File

FROM: Jeanne Pritchard

RE: Reporting Accrued Expenses

At the advice request meeting on April 14, the staff confirmed that the following standard may continue to be applied to determine when an expenditure for which consideration has been received, but for which no bill has been received, must be reported:

1. Whenever consideration has been received, but no bill has been received, and the committee has knowledge of the amount of the expenditure, the accrued expense must be reported on the campaign statement covering the period during which consideration was received. "Knowledge" exists when: (a) the committee has received an estimate of the cost; (b) the item has been charged and, therefore, the committee should have a receipt; (c) the committee knows the amount owing because of set rates, such as in the case of advertising space; or (d) it is a retainer billing situation (such as in the case of consulting services or legal fees) and the retainer comes due during the period covered by the campaign statement.

2. Whenever consideration has been received, but the committee has not received a bill in the normal course of business, and the committee does not have knowledge of the amount owing, the expenditure will be reported on the next campaign statement, either as a payment or as an accrued expense. With respect to a billing period, the "normal course of business" is no longer than 31 days.

The following sample questions will assist in analyzing specific situations to determine whether the committee has knowledge of an amount and therefore must report it as an accrued expense:

1. Did you receive an estimate from the vendor?
(If yes, must report.)
2. Do you know how much it will cost (such as in the case of set fees for advertising, etc.)
(If yes, must report.)
3. Why hasn't vendor billed yet?

- 4 When do you expect a bill?
- 5 How much do you expect it to be?
- 6 If someone in the campaign other than yourself contracted for the services and they have information regarding costs, you must get it from them and report.

When giving this advice, we should be particularly careful to point out that any attempt to delay a billing beyond the normal course of business, in order to avoid disclosure or for any other reason, violates this concept.

The most common situations in which the "normal course of business" concept is likely to be applicable is in the case of services received on an on-going basis when it would often be difficult to obtain a partial billing. Examples of these types of accrued expenses include:

utilities	clipping service
parking	accounting services (on-going)
newspaper subscriptions	legal fees
rent	consulting services



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November 17, 1986

E. P. "Bud" Maron
P.O. Box 5306
Oxnard, CA 93031

Re: 86-314

Dear Mr. Maron:

Your letter requesting advice under the Political Reform Act was received on November 13, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jeanne Pritchard".

Jeanne Pritchard
Chief
Technical Assistance and Analysis
Division

JP:plh